IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 7704 of 1996

Between:

M/s. Shivanadh Industries, B-1, Induatrial Estate,

Warangal, rep. by its Managing Partner S.Suryaprakasa Rao

..... PETITIONER

AND

1)The Assistant Divisional Engineer (Electrical),

Distribution, A.P.S.E. Board, Warangal.

2)The Assistant Divisional Engineer, DPE-II,

A.P.S.E.Board, Warangal

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Mandamus declaring the action of the respondents in issuing the notice No. ADE/D/Wgl./FDKT-114/95-96/D.No.2181, dated 25.03.1996 on the allegation that the petitioner has exceeded the contracted load and calling upon the petitioner to pay a sum of Rs.61,465/- for continuance of power supply as irrational and arbitrary and consequently, direct the respondents not to disconnect the electricity supply to the petitioner mill.

Counsel for the Petitioner: MR.B.ADINARAYANA RAO

Counsel for the Respondents : SMT.M.VINOBHA DEVI, Standing Counsel for A.P.Transco.

The Court made the following :

O R D E R :

Heard the learned counsel for the petitioner and Smt. M.Vinobha Devi, learned standing counsel appearing on behalf of the respondents.

The petitioner, which is an industry, seeks to assail by way of Writ of Mandamus, the impugned notice dated 25.03.1996 whereunder the respondents have provisionally estimated value of energy misused by the petitioner at Rs.1,22,930/- on the ground that during the inspection conducted on 14.03.1996 it was noticed that the petitioner had used unauthorisedly additional load which amounts to malpractice. The case of the petitioner, in brief, is that having regard to the very sanction given by the respondents themselves in regard to the additional load as evident from the certificate issued by them, which is filed along with the Writ Petition, it can not be said that there is any truth in the allegations of any misuse or any malpractice as such.

Having heard the learned counsel appearing on either side and on perusal of the material, it is seen that the amount assessed is only a provisional estimation, in respect of which the petitioner is entitled to file explanation, on which the respondents can pass orders taking into consideration the said explanation. Even the fact that the petitioner has already provided with additional load as evident from the certificate, itself constitutes a valid defence in regard to the allegations as now sought to be made in the impugned notice.

Having regard to the same, the Writ Petition is accordingly disposed of permitting the petitioner to file a comprehensive explanation within

a period of eight weeks from today whereupon the respondents shall pass orders on merits in accordance with law after taking into consideration the explanation and also providing an opportunity of hearing. No costs.

It is needless to mention that till the final orders are passed, the impugned demand need not be given effect to.

(B.Prakash Rao,J.)

09.12.2004

DRK

Copy to:

1)The Assistant Divisional Engineer (Electrical),

Distribution, A.P.S.E. Board, Warangal.

2)The Assistant Divisional Engineer, DPE-II,

A.P.S.E.Board, Warangal

3)Two CD copies.